

**Jude Howell**

## Shall we dance? Welfarist incorporation and the politics of state-labour NGO relations in China

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Shall we dance? Welfarist incorporation and the politics of state-labour NGO relations in China

Jude Howell, accepted manuscript, The China Quarterly 2015

ABSTRACT

State-labour NGOs relations in China have been particularly fraught. In 2012 these took an interesting twist, as some local governments made overtures to labour NGOs to co-operate in providing services to migrant workers. This article argues that this shift is part of a broader strategy of 'welfarist incorporation' to redraw the social contract between state and labour. There are two key elements to this: first, relaxation of the registration regulations for social organisations; second, governmental purchasing of services from social organisations. These overtures have both a state and market logic to maintain social control and stabilise relations of production.

## **SHALL WE DANCE? WELFARIST INCORPORATION AND THE POLITICS OF STATE-LABOUR NGO RELATIONS**

by Jude Howell, LSE (*accepted manuscript for publication in The China Quarterly, 2015*)

During the Hu-Wen period labour non-governmental organisations (NGOs) mushroomed across China, providing services to injured workers, legal advice to migrant workers, advocating labour rights and in some cases pursuing ideological goals of class struggle. Operating in a politically sensitive field, labour NGOs have been periodically subject to repression by local public security organs, particularly those that adopt a rights-based or ideological approach and/or are funded by external agencies. At other times, however, some local governments have tolerated their existence, casting a blind eye to their activism and only occasionally firing words of caution. In 2012 the tale of state-labour NGO relations took an interesting twist, as local governments and trades union branches in Beijing, Shenzhen and Guangzhou, made overtures to labour NGOs to co-operate in providing services to migrant workers, backing their advances with promises of state funding. This marked an important strategic shift in the state's approach to the previous cyclical pattern of heavy-handed state repression or muted state tolerance. How then can we explain this shift in state strategy towards selected labour NGOs?

This paper argues that these concerted overtures implemented by local states in Shenzhen, Guangdong and Beijing with the backing of central government, are part of a broader strategy of 'welfarist incorporation' aimed at redrawing the social contract between state and labour, and more generally state and citizens. There are two key elements to this strategy. The first involves widening the pool of registered social organisations to assist with welfare provision. Though the corporatist features of the regulatory framework governing social organisations remain nominally intact, in practice welfarist incorporation has required an experimental relaxation of registration rules. The second is governmental purchasing of services (*goumai fuwu* 购买服务) from social organisations. As the simultaneous repression of labour NGOs in Guangdong province in 2012 demonstrates, welfarist incorporation does not herald the end of repression. Ultimately, these overtures mark a strategic move by the Party-state facing an increasingly conflict-riven and differentiated society to maintain social control, stabilise capitalist relations of production and sustain the power and authority of the Chinese Communist Party (CCP). They have thus both a state and market logic.

The paper begins by introducing the concept of welfarist incorporation which refers here to 'a political and economic arrangement between the state and organised society, whereby the state invites selected civic organisations to assist in the implementation of welfare policy'. It distinguishes welfarist incorporation from corporatism and elucidates how it signals the crafting of a new social contract. The second section provides an overview of the rocky development of state-labour NGO relations since the early 1990s and the ambiguous nature of state-labour NGO interactions. The third part traces state moves to 'dance with labour NGOs' and examines the varied responses of the Guangdong local state and labour NGOs to this new strategic direction. Finally, it considers the implications of this strategy for future governance and crafting a new social contract based on welfare without organised politics.

In this paper the term 'labour NGOs' refers to those NGOs that orient all or part of their goals and activities towards addressing labour issues such as work injury, conditions of employment, labour rights, and worker education<sup>i</sup>. They may or may not be registered (though most are unregistered)<sup>ii</sup> and vary in terms of goals, origins, size, funding, capacity, functions, and degree of independence from state and market. As elsewhere, labour NGOs in China tend to be relatively small and task-oriented, and do not seek mass membership.<sup>iii</sup> Though the term 'NGO' conjures up an image of a legally registered entity with salaried professional staff<sup>iv</sup>, in China with the tight registration regulations, it refers to a looser array of organisations that may or may not be legally registered, independent of government<sup>v</sup>, and may or may not have professional, salaried staff and volunteers. The paper focuses on labour NGOs because they lie at the precarious edge of state-civil society boundaries in China, where, like other organisations deemed suspect by the Party-state, they are subject to frequent harassment. Observing organisations at this boundary allows us to fathom the politics underlying shifts in governance strategies towards labour organising in particular and towards civil society more generally.

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<sup>i</sup> Ford 2006.

<sup>ii</sup> He (2008: 9) refers to two labour NGOs in the Pearl River Delta that were able to register in 2007.

<sup>iii</sup> Ford, 2006:177.

<sup>iv</sup> Ahmed and Potter 2006.

<sup>v</sup> Though the term NGO suggests autonomy from the state, in practice civil society groups in China range from close-co-operation to deliberate distancing from the state. Whilst most registered NGOs are quasi-state, quasi civil society-type organisations, the proliferation of unregistered groups since 2000 far outnumbers registered groups, suggesting a more complex civil society landscape.

The paper draws on 85 semi-structured interviews research conducted with founders and staff of Chinese labour NGOs, Hong Kong labour NGOs, university legal clinics, academics and trade union officials in Beijing, Nanjing, Hangzhou, Suzhou, Chongqing, Guangdong, Hong Kong between 2010 and 2014. Altogether 32 labour NGOs were interviewed<sup>vi</sup> (8 more than once) and 8 Hong Kong labour NGOs<sup>vii</sup>. Apart from semi-structured interviews the research is also based upon newspaper articles, grey literature published by NGOs, and academic publications<sup>viii</sup>.

## I. WELFARIST INCORPORATION AND CRAFTING A NEW SOCIAL CONTRACT

Several scholars have drawn on the concept of corporatism to understand the state's role in shaping associational life in China. Schmitter (1979:93) defined corporatism as follows:

“Corporatism can be defined as a system of interest representation in which the constituent units are organised into a limited number of singular, compulsory, non-competitive, hierarchically ordered and functionally differentiated categories, recognised or licensed (if not created) by the state and granted a deliberate monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports”.

In deploying the concept of corporatism, scholars often counterposed this to civil society<sup>ix</sup>. It is beyond the scope of this paper to delve into this debate<sup>x</sup>. Suffice it to say that both approaches to explicating state-society relations have enriched the field of study, but also proven inadequate in capturing adequately the changing nature of these relations. The term welfarist incorporation provides an alternative concept for understanding the subtle shifts in state strategy towards civil society in China since the late Hu-Wen period.

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<sup>vi</sup> Seven of these were interviewed more than once.

<sup>vii</sup> I am very grateful to Professor Zhao Wei and research assistants for the labour NGO interviews conducted in Chongqing, Jiangsu and Zhejiang provinces.

<sup>viii</sup> I am grateful for comments of participants on a presentation of this paper at a seminar at the Australian National University (ANU) in September 2014, to the ANU for hosting this visit and also to the Fairbank Centre, Harvard for providing an intellectual environment for data analysis and writing.

<sup>ix</sup> Unger and Chan 1995a, b; Pearson 1994; Lee 1991; Dickson 2000; Unger 2008; Howell 2012; White et al 1996.

<sup>x</sup> For a fuller discussion see Howell 2012 and Yep 2000.

Welfarist incorporation refers to 'a political and economic arrangement between the state and organised society, whereby selected civic organisations are invited by the state to assist in the implementation of policy'. It is distinct from the idea of corporatism as first elaborated in Schmitter's work in several respects. First, whilst classic corporatism *à la* Schmitter focuses on peak organisations brought into policy-making, welfarist incorporation is limited to processes of implementation. Second, unlike classic corporatism, it is not about the representation of interests, such as the working class, but rather about the servicing of interests. Third, whilst corporatism emphasises the compulsory and non-competitive nature of selected organisations, welfarist incorporation sets up a competitive process for selecting a plurality of civic organisations to deliver services<sup>xi</sup>. As with all ideal-types actually existing welfarist incorporation may vary empirically in different political contexts.

Welfarist incorporation forms part of a broader strategy to revise the social contract between the state and workers in China. The transition towards a market economy from 1978 onwards heralded the gradual collapse of the social contract forged between workers and the state during the Maoist decades. Employment in a state enterprise was highly coveted as it offered cradle-to-grave social security, considerable welfare benefits varying with the size and wealth of the enterprise, permanent or temporary worker, in return for worker quiescence<sup>xii</sup>. At the ideological level workers were proclaimed 'masters of the enterprise' at the top of the communist, socio-political hierarchy.

Experimentation with foreign investment in the Special Economic Zones in the 1980s paved the way for the gradual commodification and casualization of labour, as workers became employed on time-bound contracts and rewarded according to productivity<sup>xiii</sup>. The extension of these conditions to all urban workers coupled with accelerated state enterprise reform from the mid-1990s led to the 'smashing of the iron rice bowl' and the subsequent decline of the 'work-unit' (*danwei* 单位) as a site of reproduction and social control<sup>xiv</sup>. By the late 1980s workers were already expressing dissatisfaction with the new employment terms through

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<sup>xi</sup> This reflects similar neo-liberal processes of sub-contracting to NGOs elsewhere. See Kamat 2004, Howell and Pearce 2001, Robinson 1997.

<sup>xii</sup> Takahara 1987; Walder 1986; White 1987.

<sup>xiii</sup> Crane, 1990; Howell, 1993; Takahara 1992; Friedman and Lee, 2010

<sup>xiv</sup> Tomba 2006

attacks on managers<sup>xv</sup>, strikes<sup>xvi</sup>, passive resistance to wage reforms and voting with their feet<sup>xvii</sup>. Party leaders became increasingly concerned about increasing unrest both in rural areas and in China's export-oriented coastal belt. To appease labour the Party-state began to fashion a new social contract that would guarantee worker quiescence in return for legal protection of rights, a more effective trade union and social welfare.

There were three elements to this revision of China's social contract: first, the introduction of protective labour legislation such as the 1994 Labour Law, 2007 Employment Promotion Law, 2008 Labour Contract Law, 2010 Social Insurance Law; second, central government pressure on the ACFTU to become more effective in averting conflict by establishing grassroots unions in private enterprises, absorbing migrant workers, developing legal capacities and establishing collective consultation (Chen 2004; Howell, 20008; Pringle and Clarke 2011; Taylor et al 2003); and third, the creation of a social welfare system to fill the vacuum left with the disintegration of the work-unit. It is this third dimension which forms the main focus of this article and within which we position the state's invitation to labour NGOs to dance.

With the acceleration of state enterprise reform from 1994 onwards and subsequent labour unrest, the Party/state began to cast its attention to reforming the welfare system. During the Jiang Zemin period there were patchwork efforts to experiment with developing insurance systems for medical, social security and pensions provision for urban citizens<sup>xviii</sup>. However, welfare reform proceeded in piecemeal fashion during the 1990s, with considerable variation and regional fragmentation.

It was during the Hu Jintao and Wen Jiabao period (2002-2012), when the political discourse shifted to people-centred development and harmonious society that a more systematic effort was made to address welfare. This entailed creating policy and regulatory frameworks for private for-profit and not-for-profit welfare providers, reforming community-level institutions, and cultivating a cadre of professional social workers. Together these reforms

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<sup>xv</sup> Sheehan, 198: 209

<sup>xvi</sup> Wilson, 1990:59

<sup>xvi</sup> Leung 1988:156-171

<sup>xvi</sup> Howell, 1993: 234

<sup>xvii</sup> Howell, 1993: 213, 223.

<sup>xviii</sup> Chan et al 2008.

were captured in the new-fangled slogans of ‘social management’ and ‘social construction’ that were introduced in the fourth and sixth Plenary Sessions of the 16<sup>th</sup> Party Congress in 2004 and 2006 and given added weight in the 17<sup>th</sup> Party Congress in 2007<sup>xix</sup>. These terms were sufficiently vague to solicit both optimistic and pessimistic expectations about the state’s approach to governing society and provided a veil for intra-Party contestation of the issue.

However, developing a professional and effective non-profit civic sector of welfare provision proved challenging. First, the regulatory framework for registering social organisations was highly restrictive, creating a disabling environment for seeding a civic welfare infrastructure. Key limitations related to the corporatist features of regulations such as restrictions on expansion which would give economies of scale, the need to identify a government sponsor, and the prohibition on forming branches<sup>xx</sup>. In addition, the 2010 Foreign Exchange Administration regulations put additional constraints on social organisations accessing foreign funding.

Second, there is a deep government suspicion of independent collective action. In particular, central Party leaders fear that a more relaxed regulatory framework for civic organisations would create openings for oppositional groups to emerge. This deep suspicion gained further force after President Putin introduced a highly restrictive NGO law in 2006 as a response to his concern that foreign agencies manipulated the Colour Revolutions in Georgia, Ukraine and Kyrgyzstan through support to local NGOs. In the wake of these Revolutions and mounting concern over social unrest, the Chinese Party/state became ever more vigilant about monitoring externally funded NGOs<sup>xxi</sup>.

Third, intra-state tensions, and in particular between more open-minded officials in the Ministry of Civil Affairs, backed indirectly by scholars advocating more space for civil society organisations, and public security organs concerned about external threats have been

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<sup>xix</sup> For a detailed account of conceptual shifts see He (2014).

<sup>xx</sup> For example, Article 13 stated there could be only one organization for any domain of work in the same administrative area. Article 19 sharply restricted the establishment of branches elsewhere to curb the emergence of any competing national political force. Article 3 required all social organizations to identify an official sponsoring agency (*zhuguan danwei*) so as to maintain control.

<sup>xxi</sup> At a Shanghai Cooperation Organisation meeting in 2005 President Putin reportedly warned President Hu Jintao about the potential subversive impact of foreign NGOs (see Shambaugh, 2010:91).



a prime factor in stalling progress in amending the registration regulations. Furthermore, both sets of institutions have vested interests in increasing their resources and power base. In 2010 public security agencies enjoyed a substantial boost in budgetary revenue to maintain political stability, more than that allocated to defence<sup>xxii</sup>.

Two key initiatives in the late Hu-Wen period signalled a serious attempt to craft a new civic sector of welfare provision. These were first the experimental adjustment of registration regulations for social organisations, initially at a local level, to widen the pool of registered social organisations, including previously suspect groups such as labour NGOs. In particular certain categories of social organisations could register directly with the Civil Affairs Bureau, forgoing the need for a relevant government sponsor (*zhuguan danwei* 主管单位). Scholars working on social organisations in China and some officials within the Ministry of Civil Affairs had long been advocating for this and other changes in the regulations. Governmental departments were wary of sponsoring social organisations unless they were very familiar with their staff and work, their risk-averse approach being a significant obstacle to registration. The second initiative was the establishment of processes for governmental purchasing of welfare services from selected registered social organisations.

Experimentation with relaxing the registration requirements for selected social organisations began in 2008 in Shenzhen, then Beijing and Guangzhou. In 2009 the Ministry of Civil Affairs and Guangdong province signed an agreement on promoting reforms in civil affairs, including moves towards relaxing registration requirements and outsourcing service provision<sup>xxiii</sup>. In 2011 the Civil Affairs Bureau of Guangdong province was already planning to relax restrictions on the registration of civil society organisations<sup>xxiv</sup>. This scheme came into effect from July 2012, enabling these reforms to be extended across the province and promoted across China. In the summer of 2012 the Ministry of Civil Affairs released a document announcing that certain social organisations such as charities, industrial associations and public interest groups could register directly with the relevant level of the Ministry of Civil Affairs. In Guangdong the provincial regulations stipulated eight types of

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<sup>xxii</sup> In 2010 the public security budget increased 15 per cent to Y548 billion, more than national defence at Y 533.5 billion. For the next three years it continued to exceed national defence (see Fosrythe, 2011, Buckley, 2012 and Blanchard and Ruwitch 2013).

<sup>xxiii</sup> See IHLO, 2011b for a useful synopsis of the key policies and regulations adopted from 2006 onwards in Guangdong province.

<sup>xxiv</sup> See IHLO 2011 a,b.

organisations<sup>xxv</sup>. Groups engaged in advocacy, rights work or political issues were not amongst this list.

In 2008 the central government selected Shenzhen, Beijing and Guangdong to pioneer the second initiative, governmental purchasing of social services from non-profit providers<sup>xxvi</sup>. The Social Affairs Commission to this end allocated specific sums of money for the sub-contracting of services, either directly to the Ministry of Civil Affairs or through separate channels. For example, in 2012 Guangdong provincial government allocated Y466 million in 2012 for subcontracting services from social organisations<sup>xxvii</sup>.

Both these innovations marked a serious attempt to change the regulatory environment affecting civic organising to draw 'social forces' into providing welfare. To use the metaphor of Chen Yun when describing state-market relations, welfarist incorporation allows some opening of the cage housing the bird of civil society but only to lure it towards a state agenda. On the one hand it is about maintaining the political regime by appeasing migrant workers through the provision of welfare services – albeit a politics of interim appeasement that remained far from any fundamental restructuring of citizenship rights for migrant workers in cities. On the other hand welfarist incorporation has a market logic to appease workers and so stabilise capitalist production relations. The next sub-section examines more closely the politics of state-labour NGOs relation up till the twist in spring 2012 when the state simultaneously courted labour NGOs and as in Guangdong province continued with selective harassment.

## II. STATE-LABOUR NGO RELATIONS 1990-2011

This section examines the contours of state-labour NGOs since the early 1990s, analysing the cycles of contention characterised by periods of selective, intense harassment and more muted tolerance. Such tolerance was muted in that there was no positive endorsement of

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<sup>xxv</sup> In Guangdong these include industrial associations, trade associations registered in other provinces, organisations serving the living of the masses, charitable organisations, social service organisations, rural-urban grassroots organisations, organisations with a relation/affiliation to foreign organisations and nexus organisations.

<sup>xxvi</sup> On the background to government procurement see Jia and Su 2009.

<sup>xxvii</sup> See The Economist, April 12<sup>th</sup> 2014, 'Chinese Civil Society. Beneath the Glacier'. See Interviews 24, 64, 71 13, 14, 15 regarding labour NGOs receiving government contracts in Guangdong..

labour NGOs by local state agencies, no ‘invitation to dance’, a situation that was to change from the 2012 onwards, as will be discussed in the next section.

While business, trade, and professional associations emerged from the early 1980s, it was only from the early 1990s that the first labour NGOs appeared. Two factors played a key part here. First, the expansion of spaces for civic organising in the run-up to the 1995 Fourth World Conference on Women in Beijing facilitated the emergence of labour NGOs. The other factor was the extension of the Open Policy throughout the Pearl River Delta in the early 1990s and media exposure of poor working conditions and unsafe practices<sup>xxviii</sup>. It was following the horrific fire in Zhili Toy Factory in 1993, in which 87 workers died, that scholars, activists and Hong Kong NGOs began to campaign for workers’ rights and set up labour NGOs, mainly in Guangdong province<sup>xxix</sup>. The regulatory review of social organisations between 1997 and 1998 stymied further growth of labour NGOs. By the late 1990s there were still only a dozen or so labour NGOs, too few in number, reach and resources to have much impact.

WTO entry in 2002 deepened China’s insertion into global production systems. Continuing reports of serious labour rights violations along with an expansion of civic organising stimulated a further growth of labour NGOs<sup>xxx</sup>. As most labour organisations are not registered, some operate underground and others close down due to lack of funding or government pressure, it is impossible without a formal registration system registration to accurately estimate their number<sup>xxxi</sup>. Interviews<sup>xxxii</sup> and documentary sources estimate anywhere from 40 to 100 labour NGOs in China, figures varying according to definitions used and information available<sup>xxxiii</sup>. In this study, one quarter of the labour NGOs were founded in the 1990s, the remainder being formed since 2001<sup>xxxiv</sup>. Though largely

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<sup>xxviii</sup> Chan 2001.

<sup>xxix</sup> Chan 2012.

<sup>xxx</sup> Howell 2003.

<sup>xxxi</sup> Ford (2006: 181) recounts a similar issue in Indonesia.

<sup>xxxii</sup> Interview 74, labour NGO, Hong Kong, 29.08.011; interview 58, labour academic, Beijing, 20.07.2011.

<sup>xxxiii</sup> Without a register of labour NGOs, figures are never entirely accurate and vary too according to empirical referents included. Interviewees gave estimates from 30 in the Pearl River Delta (Interview 69, labour NGO, Shenzhen 26.08.2011), 50 (Interview 75, labour NGO, Hong Kong, 29.08.2011) to 100 in all China (Interview 58, labour academic, Beijing, 20.7.2011). See also Xu 2013.

<sup>xxxiv</sup> 17 were founded between 2000 and 2010 and four between 2010 and 2012.

concentrated in Guangdong province and Beijing<sup>xxxv</sup>, labour NGOs have spread since the millennium to other cities such as Suzhou, Hangzhou, Nanjing, Chongqing, Wuhan, Yantai and Qingdao<sup>xxxvi</sup>. This spread points to the increasing resignation of local governments to the survival capacities of labour NGOs (Cheng, Ngok and Zhuang, 2010) and growing recognition of their role in addressing migrant workers' issues.

Nevertheless state-NGO relations have been characterised by periods of harassment and muted tolerance. For public security agencies labour NGOs are sensitive organisations that need careful watching. There are four issues that are of particular concern. First, China has a long established trade union, the ACFTU, that is supposed to represent workers and forms a key pillar of Party structure (Pringle and Clarke 2010, Taylor and Qi). For TU officials, labour NGOs present a symbolic threat to their legitimacy. Second, independent worker mobilisation, labour NGOs or co-ordinated strike action conjure up images of the Polish Solidarity movement and thus potential regime threat (Wilson 19990). The third issue concerns the need to provide a favourable environment for capitalist production. Hence, collective action that impinges on production often triggers a harsh response from local public security agencies. The final concern revolves around the perceived influence of 'hostile foreign forces'. Labour NGOs with connections to Hong Kong labour groups or supported by foreign funding arouse particular suspicion.

It is only in relation to the fourth issue that there is some possible substance to the perceptions of public security agencies. Most labour NGOs rely on external funding from foreign foundations, international NGOs, embassies to support activities and core costs<sup>xxxvii</sup>. In the office of one Beijing labour NGO established by a former worker, the walls were adorned with photos of foreign visitors, international newspaper cuttings and the logos of international organisations<sup>xxxviii</sup>. Most labour NGOs, however, rely on more limited funding, both in terms of sources and amount. Hong Kong labour NGOs have played a key role in fostering labour NGOs in China, particularly in Guangdong province, and have approached

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<sup>xxxv</sup> Xi 2013:246.

<sup>xxxvi</sup> Labour NGOs for this study were located in Beijing, Guangdong, Chongqing, Zhejiang, Jiangsu and Shanghai. Tilly et al (2013: 104) estimate there to be 6 in the Yangtze River Delta to in 2012; our own research found 10.

<sup>xxxvii</sup> There is a very small minority who ostensibly refuse external funding, Renjian being a case in point (Interview 35, Beijing, 23.07.2012).

<sup>xxxviii</sup> Interview 28, labour NGO, Beijing, 17.07.2012.

this work with considerable commitment<sup>xxxix</sup>. In particular they have been pivotal in mentoring NGO staff, providing organisational, strategic, tactical and analytic advice, building dormitory- and factory-based networks, importing frames and discourses, and creating opportunities to link with international labour movements<sup>xl</sup>. Foreign foundations have also been central in stimulating the emergence of university-based legal clinics, providing legal advice to migrant workers and assisting them with legal cases.

It is the perceived risk they pose to national security and regime maintenance that drives periodic state harassment of labour NGOs. Such harassment has ranged from impromptu inspection visits to cutting off utility supplies, eviction and outright brutality, often through third parties, the chilling attack on the founder, Huang Qingnan, of a Guangdong labour NGO in November 2007 being a case in point<sup>xli</sup>. Employers and local state officials eager to achieve growth targets often collude in such harassment. However, not all labour NGOs are targeted in the same way, more severe forms of harassment being reserved for groups that local state officials particularly fear, either because of external links or ideologically driven activism. The extent of harassment has also varied regionally, being reportedly more prevalent in Guangdong province, not least because of the concentration of foreign investment.

In general labour NGOs have managed to survive, not just because they have adroitly re-invented themselves and sought new premises, but also because local Party leaders, especially in Guangdong province have come to recognise that it is impossible to stop their operations through prohibition or the corporatist regulatory framework. To give but one example, a legal assistance labour NGO in Shenzhen founded by a former worker has repeatedly re-opened in another location<sup>xlii</sup>. Furthermore, the Chinese Party/state has been careful in recent years not to completely close down labour NGOs for fear of international pressure. One recent example was the campaign led by the founder of a school for migrant workers' children in Beijing, who thwarted local county government attempts to close the school by mobilising support from parents, academics and donors<sup>xliii</sup>. Thus, the state's approach to labour NGOs has subtly shifted as government security officials have realised

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<sup>xxxix</sup> See Chan (2012) for a detailed study of the impact of Hong Kong labour NGOs on China.

<sup>xl</sup> Chan 2012; Friedman 2009.

<sup>xli</sup> Interview 75, labour NGO, Hong Kong, 29.08.2011.

<sup>xlii</sup> Interview 69, labour NGO, Shenzhen, 26.08.2011.

<sup>xliii</sup> Interview, 81, labour NGO, Hong Kong, 09.12.2013 and interview 85, NGO, Beijing, 10.04.2014.

they cannot completely prohibit labour NGOs and as civil affairs officials have grown increasingly aware of the benefits that labour NGOs can bring in maintaining social order and providing services.

Paradoxically though, labour NGOs in China are hardly creatures about to foment revolution and seize the barricades. Most are too small in scale and number, too distant from workers, too focussed on meeting perceived practical needs such as service provision rather than strategic needs such as collective empowerment<sup>xliv</sup>. Furthermore, given the emphasis in Chinese labour law on individual rather than collective rights<sup>xlv</sup>, most labour NGOs funnel workers towards individualised solutions to what are essentially structural problems of power in the workplace<sup>xlvi</sup>. As Friedman and Lee (2010: 515) suggest, they are part of the 'rule by law' jigsaw that fosters bureaucratic and judicial means for addressing conflict, propping up an authoritarian, market-oriented system rather than undermining it through collective action<sup>xlvii</sup>.

Such criticism is, however, perhaps overly harsh given the severe political constraints facing labour NGOs. As Xu (2013: 250) notes, it does not give full credit to the contribution of NGOs engaged in legal awareness training and fostering organisational skills amongst workers. Nor does it acknowledge the more strategic work done by some labour NGOs, particularly those with links to Hong Kong, that are involved in campaigning, research and advocacy, even though their impact is limited<sup>xlviii</sup>. It thus fails to situate labour NGOs within a broader, historical framework around the potential of building a labour movement<sup>xlix</sup>.

The majority of labour NGOs in this study, excepting underground organisations or those linked to Hong Kong labour NGOs, do not have a broader ideological vision of social change based on structural power, let alone a strategic implementation plan. Rather, they focus on less ambitious, 'within-system' goals such as defending individual labour rights or providing

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<sup>xliv</sup> Molyneux 1985.

<sup>xlv</sup> Chen 2007:63.

<sup>xlvi</sup> Lee and Shen, 2011; Xu 2013.

<sup>xlvii</sup> Lee and Shen 2011 and Froissart 2011.

<sup>xlviii</sup> Froissart 2011.

<sup>xlix</sup> See Xu 2013: 24. Also Ford (2006) argues persuasively that labour NGOs are more than substitutes for unions and have a longer-term role in the labour movement.

services to migrant workers, not just because of political constraints<sup>l</sup> but also lack of strategy. There is a minority of more professionalised labour NGOs with off-shoots across the country<sup>li</sup> that have been particularly adept at fund-raising. However, these are also the least likely to promote wider structural change. Few make links between labour rights violations in the workplace and the broader social exclusion of migrant workers that hinges on the divisive ascribed residency system<sup>lii</sup>. Nor do the majority engage with workers striking or demonstrating<sup>liii</sup>, whether in initiating these or advising workers on organisation and leadership. With the recent shift towards collective ‘consultation’, a small minority are now planning to work in support of collective bargaining processes<sup>liv</sup>.

These periods of harassment are punctuated by periods of muted tolerance as other parts of the Party/state view labour NGOs and civil society organisations through a more instrumental and measured lens. In particular, those parts of the state concerned with occupational health and safety, social welfare and community-level governance are more ready to tolerate labour NGOs, which they see as filling a yawning gap in service provision. For local trade unions, with limited personnel and funding<sup>lv</sup>, labour NGOs with networks of sympathetic lawyers can assist with cases that are not easily winnable<sup>lvi</sup>. Lacking capacity, Dongguan Trade Union contracted a labour NGO to organise activities for workers and their children<sup>lvii</sup>. Shenzhen Federation of Trade Unions has absorbed labour NGO staff to work in its legal service

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<sup>l</sup> The ACFTU faces similar political constraints, though as Chen (2004) argues, its positioning as a state agency gives it greater leverage to influence policy.

<sup>li</sup> Article 19 in the regulations on the management of social organisations prohibits the establishment of branch organisations. To circumvent this, in the last five years some larger labour NGOs have established off-shoots that register independently as enterprises or operate without registration.

<sup>lii</sup> Regarding the distinctiveness of the proletarianisation process in China due to the institutionalised rural-urban divide, see Pun and Lu, 2010. See Froissart (2011: 2) for an initiative on welfare rights for migrants by several Guangdong-based and Hong Kong NGOs.

<sup>liii</sup> See Friedman (2009: 200) on strikers consulting with labour NGOs in Shenzhen and Xu (2013: 252) on the reluctance of labour NGOs to undertake collective action.

<sup>liv</sup> A Guangdong labour NGO is already planning to support collective bargaining processes. Some Hong Kong labour NGOs are also extending activities in this field.

<sup>lv</sup> For example, Shanghai General Trade Union’s Legal Advice Centre had only six full-time staff, hence its reliance on a network of sympathetic legal professionals (Chen 2004:35)

<sup>lvi</sup> Interview 2, labour NGO, Nanjing, September 2012; interview 39, labour NGO, Guangzhou, 24.05.2012.

<sup>lvii</sup> Interview 24, labour NGO, Guangzhou, 10.07.2012.

centres (Xu 2013: 255). Nonetheless, given the restrictive registration requirements, Civil Affairs Bureaus were not able before 2012 to engage systematically with labour NGOs because of their lack of legal status as social organisations. Thus, it is the concerns of public security agencies and the ACFTU that have tended to prevail in directing state strategy towards labour NGOs.

While local government officials approach labour NGOs with considerable caution but also awareness of mutual interests, labour NGOs too seek a variety of relations with the state<sup>lviii</sup>. Establishing a relation with the state can lend legitimacy to an organisation and provide protection, allowing the organisation to conduct activities with minimal interference<sup>lix</sup>. Some labour NGOs studiously ensure that their rhetoric mirrors the slogans of Party leaders and provide advice within the law, thereby ensuring their credibility with the local government<sup>lx</sup>. Enjoying a positive relationship with the state can provide access to resources such as an office or opportunities to access officials through training activities<sup>lxi</sup>. A small minority of labour NGOs in this study have close relations with government authorities and the local Trade Unions. For example, a Chongqing NGO set up by a severely injured Zhili factory worker maintains close relations with the local government, which uses its materials for training. Not only have the local and national governments given her several awards, but she has also become a member of the local People's Political Consultative Committee<sup>lxii</sup>. This contrasts with the case of a former worker in Shenzhen who initially set up a migrant workers' association, then a legal counselling service for workers and who later stood as an independent, local People's Congress candidate. He was harassed repeatedly by the local authorities and eventually withdrew his candidature<sup>lxiii</sup>.

Labour NGOs also seek access to the state to influence policy. In 2008 various Guangdong labour NGOs seized the opportunity to participate in a conference organised by Shenzhen TU

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<sup>lviii</sup> Hildebrandt 2011.

<sup>lix</sup> Interview, 24, labour NGO, Guangzhou, 10.07.2012; interview 34, labour NGO, Beijing, 23.07.2012; interview 14, labour NGO, Beijing, 30.06.2012; see also He (2008: 15) on Little Bird's tactics of cultivating personal ties with government agencies to gain legitimacy and protection.

<sup>lx</sup> He 2008:15.

<sup>lxi</sup> Ahmed and Potter, 2006; White et al, 1996.

<sup>lxii</sup> Interview 8, labour NGO, Chongqing, September 2012.

<sup>lxiii</sup> Interview 69, labour NGO, 26.02.2011



to discuss the drafting of detailed implementation regulations for the Labour Contract Law<sup>lxiv</sup>. Similarly, Guangdong-based labour NGOs submitted suggestions in the consultation process around the draft Social Insurance Law that was finally issued in late 2010<sup>lxv</sup>. Whilst some labour NGOs have maintained friendly, informal relations with the local TU, others have sought in vain to establish such ties.<sup>lxvi</sup> Such informal channels of contact acquire particular importance when the lack of registration as a social organisation precludes any formal relation with the state.

Nevertheless, most labour NGOs have studiously avoided any activity that might attract the negative attention of local authorities. As a senior staff member of one relatively professionalised labour NGO commented in relation to its new Shanghai office: “If you start talking about labour rights, the government will consider you to be sensitive.” Similarly a staff member in a Hangzhou labour NGO stated, “It seems to me that defending rights too much is like fighting to the end and probably there won’t be any quality outcome. I have seen that in the Pearl Delta, all their defending rights work has not come to much and when there is a crisis, not many people stand by them”<sup>lxvii</sup>. Or, as another Beijing labour NGO described: “There is no clear regulation saying that you can’t work on rights. From the government’s perspective they want some people to raise the awareness of workers because then they can resolve quite a few things through the law but they don’t want you to do that to the point where workers might get too strong and start striking and foreigners would see this and see that social order was disturbed”<sup>lxviii</sup>. A small number with close links to concerned academics and professionals or external labour NGOs take greater risks, however, to build a democratic labour movement through consciousness-raising, leadership building and worker education.

Up to 2012 state-labour NGO relations have been subject to cycles of contention, with periods of selective harassment punctuated by periods of muted tolerance. Though some labour NGOs and community, city or provincial level governments were able to establish some very limited forms of co-operation, the disabling regulatory framework and prevailing security concerns stymied systematic formal co-operation. The next section examines the politics underlying the curious twist in this saga as the state ‘invites labour NGOs to dance’.

<sup>lxiv</sup> Interview 70, labour NGO, Shenzhen, 26.08.2011.

<sup>lxv</sup> Froissart 2011: 2-3.

<sup>lxvi</sup> Interview 70, labour NGO, Shenzhen, 26.08.2011; Interview 13, labour NGO, Dongguan, 29.06.2012.

<sup>lxvii</sup> Interview 5, labour NGO, September 2012, Hangzhou.

<sup>lxviii</sup> Interview 83, labour NGO, Beijing, 02.04.2014.

Though by no means signalling an end to repression, it does point to an important shift in state strategy.

### III. LET'S DANCE

The pattern of cyclical harassment and muted tolerance characterising state-labour NGO relations took an interesting twist in 2012. The provincial trade union of Guangdong province, with the strong backing of then provincial Party Secretary, Wang Yang, began in 2012 to prepare for the formation of a hub-style federation of social forces concerned with migrant workers. In April it convened a seminar to set up such a federation, inviting experts, academics and labour NGOs. The following month the Guangdong provincial Trade Union called a meeting of academics, lawyers, labour NGOs to establish the Federation of Social Service Organisations for Guangdong Workers<sup>lxi</sup>. In June it ran training courses for senior trade union officials in Peking University and for county level trade union chairs at the China Labour College, thereby firmly institutionalising the policy<sup>lxx</sup>. The Federation has 89 members, including 34 labour NGOs and TU service centres, 55 individual members such as academics, lawyers and journalists and TU officers. Its aims are to foster the capacity of labour NGOs to provide labour and legal services to migrant workers<sup>lxxi</sup>, leaving the TU to undertake core functions such as representing workers in collective negotiation. Members of the Federation can access government and TU-funded labour service projects, participate in the mediation of labour disputes, and promote corporate social responsibility. To this end TUs have been allocated specific sums of money for the purpose of sub-contracting services.

Already in the summer of July 2011 Guangdong province Trade Union had started to make informal overtures to selected labour NGOs to co-operate in service provision. The following summer, the Beijing Civil Affairs Bureau commissioned a professional Beijing-based labour NGO to organise a meeting of labour NGOs in Nanjing to encourage them to apply for government service contracts related to migrant workers, with reportedly around twenty labour NGOs invited. Though prior to this a few labour NGOs were already co-operating with local TUs in providing services, mainly at community level<sup>lxxii</sup>, this meeting was

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<sup>lxi</sup> Interview 39, labour NGO, Guangzhou, 24.05.2012; and IHLO May 2012a

<sup>lxx</sup> Lin 2012.

<sup>lxxi</sup> IHLO 2012a.

<sup>lxxii</sup> Interview 24, labour NGO, Guangzhou, 10.07.2012.

significant as it signalled a systematic shift in approach to labour NGOs, one that went beyond muted tolerance to active and productive welfarist incorporation.

Under the firm leadership of Wang Yang in the run-up to the 18<sup>th</sup> Party Congress, TU leaders felt under pressure to demonstrate a more active role in protecting workers, especially given the wave of strikes in 2010 in Guangdong. As one labour academic commented, “If the TU is talking about service purchasing, then this is not because they want to listen to more voices, but because they are responding to a local government call about doing this more. They have to be seen to be doing something”<sup>lxxiii</sup>. The TU sought through this hub to sub-contract service provision to labour NGOs. However this did not extend to rights advocacy or collective bargaining but focused on more seemingly apolitical activities like legal awareness, training in life-skills, and organising cultural activities.

It was also a way of putting competitive pressure on the TUs to improve their performance. The ACFTU has consistently prevented the formation of any ‘second trade unions’<sup>lxxiv</sup>, stamping down on attempts to unionise outside of its orbit and more recently incorporating newly formed associations, such as the Domestic Workers’ Association in Xian. However, the Party/state has cajoled the ACFTU to be more active in defending workers’ rights, as part of a more general effort to reform mass organisations, which the Party increasingly sees as burdensome and ineffective (Chu 2014). In this spirit not just the ACFTU but also other mass organisations like the Guangzhou City and Shenzhen Communist Youth Leagues and Women’s Federation formed parallel ‘hub’ (*shu niu* 枢纽) federations, incorporating many unregistered groups under their leadership<sup>lxxv</sup>.

However, whilst Guangdong government was on the one hand pushing for active co-operation with selected labour NGOs, it was on the other hand also clamping down on certain labour NGOs in the region from February 2012 onwards. Concerns about ‘hostile forces’ both internal and external, were a key driver behind the simultaneity of the invitation to dance alongside the clampdown on certain labour NGOs. Already in 2007 governmental pressure was being placed on labour NGOs, when eight government departments of Shenzhen

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<sup>lxxiii</sup> Interview 42, labour academic, Guangzhou, 28.05.2012.

<sup>lxxiv</sup> Pringle and Clarke, 2011: 64; Howell, 2009: 186–189

<sup>lxxv</sup> The Guangdong Hub for care of women and children, established May 2012, had 3,628 registered and unregistered grassroots organisations under its leadership (Li and Lin, 2012).

government prohibited labour NGOs from acting as legal representatives for workers<sup>lxxvi</sup>. As Friedman and Lee (2010: 534) and Xu (2013: 254) reveal, an internal report by the Guangdong Communist Party Committee's Law and Politics Committee released in early January 2009 castigated some rights-protection labour NGOs as 'collecting negative information on our labour and legal issues' and receiving funds from 'foreign anti-Chinese forces' as part of a larger plot to 'attack our labour system'. In June 2012 the head of Jieyang City TU, Guangdong Province, made explicit reference in a speech to the emergence of 'migrant workers' associations and people's trade unions (*minjian gonghui* 民间工会), all of which were cast as evidence of hostile forces operating to destabilise China. As he stated: "People's social organisations are an important front of internal and external hostile forces plotting to Westernise and split China"<sup>lxxvii</sup>.

Although this contradictory behaviour at first sight might suggest that this was just yet another swing in the cycle of repression and relaxation, the formulation of new local regulations marks a formal, significant shift in the state's approach to labour NGOs. Puzzled by the contradictory moves by leaders in Guangdong province, several labour activists and scholars speculated that these might reflect internal conflicts between provincial and local levels in Guangdong province that then accounted for more repressive measures in some cities such as Shenzhen, or that this was a ruse to bring quasi-hidden labour NGOs to the surface, creating a wedge between those NGOs that co-operated and those that did not<sup>lxxviii</sup>.

The responses of labour NGOs to this new approach have been mixed. Some NGOs have gladly seized the opportunity to stabilise their funding base, secure their legal status and gain legitimacy and protection. Some have been particularly successful in acquiring contracts, whilst others have not been able to register, partly because local-level officials were unaware of the changes in regulations or because they were unfamiliar with the group and thus unwilling to take a risk. The Civil Affairs Bureau in Beijing, for example, awarded one professionalised labour NGO, with whose work it was well acquainted, two projects in 2011, for the sums of Y30,000 and Y50,000 respectively, accounting for one third of their funding

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<sup>lxxvi</sup> Xu 2013: 254.

<sup>lxxvii</sup> See 'Guangdong sheng Jieyang city TU: people's social organisations and the TU', 27.06.2012, speech, accessed on [www.gdpftu.org.cn](http://www.gdpftu.org.cn) on 02.02.2014. See also Document 9 circulated by the CCP Central Committee, April 22<sup>nd</sup> 2013.

<sup>lxxviii</sup> Interviews 17, 20, 21, 22, 37, 38, 41, 44.

that year, to organise activities for migrants and health checks for their children<sup>lxxxix</sup>. In 2012 Beijing Civil Affairs Bureau awarded them another contract on the health issues of workers' children, again work for which they had previously established a reputation. One of the first labour organisations in Beijing to organise around female migrant workers and more recently domestic workers has also secured community-level government contracts for the care of the elderly, a relatively new activity entrusted to them on the basis of their previous work in training domestic workers<sup>lxxx</sup>.

Not all labour NGOs have been able to register, however. For example, the Shenzhen-based Hand in Hand NGO encountered several problems such as not being able to gain the street committee's approval as officials were not familiar with it. After another attempt at city-level it failed again because the defined scope of business did not fit the criteria. In contrast the Blue Workers' Co-operative, due reportedly to support from respected professionals and advice given to use a different name, namely, Good Citizens' Social Work Services Centre, were finally able to register<sup>lxxxi</sup>.

But for some labour NGOs cosyng up to government is seen as risky, potentially undermining their autonomy and compromising goals and activities. Some NGOs that are more ideologically inclined have no interest in tendering for government contracts, even if this would potentially give them greater financial stability. Labour NGOs that are not invited to dance or do not have the capacity to meet the requirements of procurement contracts risk remaining in a legal limbo, ever vulnerable to intermittent harassment. There are also labour NGOs that local governments would definitely not invite to co-operate. According to a Beijing City TU official, certain labour NGOs are on a 'blacklist' of 'sensitive' organisations, whilst NGOs relying for all their funding from foreign sources would not be invited to apply, on grounds that foreign agencies have ulterior motives in China<sup>lxxxii</sup>.

Whilst it is too early to assess the effects on labour NGOs of 'dancing with government', there are already some indications that co-operation is leading NGOs to limit their activities to safe agendas and to become more adjutants of the government rather than of workers. For example, a labour NGO began in 2012 to sub-contract with the local TU in Beijing to provide

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<sup>lxxxix</sup> Interview 33, labour NGO, Beijing, 18.07.2012.

<sup>lxxx</sup> Interviews 31 and 32, labour NGO, Beijing, 18.07.2012

<sup>lxxxi</sup> Du et al 2012.

<sup>lxxxii</sup> Interview 26, labour studies academic, Beijing, 12.07.2012.

cultural services such as organising dances to construction workers. When asked whether they would still assist workers with disputes over salaries or industrial injury, its founder explained that, “This is a service purchasing contract. There is a line that cannot be crossed, and to do so would be dangerous<sup>lxxxiii</sup>”. Similarly, Dongguan city TU in March 2011 contracted with a labour NGO to carry out some of its functions, as their staff were all part-time. The labour NGO, which draws 90 per cent of its funding from government contracts, operated from within the factory to organise activities for workers’ wives and children, set up worker’s choirs and arrange lectures on occupational health and safety. While the NGO benefited from the revenue, the arrangement steered them into cultural activities rather than strategic work around rights and power relations.<sup>lxxxiv</sup> In another case a labour NGO in Shenzhen subcontracted directly with a TNC to run a hot-line for workers, with plans to extend this to Shanghai<sup>lxxxv</sup>. The interviewee described this as doing ‘enterprise social work’, reflecting the underlying goal of appeasement and conflict avoidance.

In some cases labour NGOs have been contracted to provide services to groups other than workers, such as the elderly, thus potentially deflecting them from their original missions. As one interviewee in a Beijing labour NGO stated, “I feel we are moving away from our goals. ...As [foreign money] dries up, we will move more and more away from our original goals. But we haven’t lost these goals altogether. We still have voluntary hotlines and we still have lawyers who work with us so we can still do this work with migrants. We haven’t forgotten it or lost it”. Indeed, this organisation had already devised a way of continuing with its original goals by running parallel organisations with separate registration statuses, enabling it to access both domestic and foreign funds.

Labour NGOs engaged in governmental service provision are unlikely to be agencies of social change empowering workers to organise collectively, challenging government employment policies or consciously building a labour movement. Whilst labour NGOs with a more strategic agenda seek to foster a labour movement through collective action, labour NGOs that come to rely on government funding function effectively as part of a system of welfarist incorporation containing worker dissent rather than empowering workers and ultimately stabilising rather than challenging capitalist relations of production. This is not to

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<sup>lxxxiii</sup> Interview 26, labour studies academic, Beijing, 12.07.2012

<sup>lxxxiv</sup> Interview, 24, labour NGO, Guangdong, 10.07.2012

<sup>lxxxv</sup> Interview 28, labour NGO, Beijing, 17.07.2012.

dismiss the work of labour NGOs, nor to deny their potential to become future agencies of change, but to distinguish as one labour activist stated between 'doing NGO work and doing movement work'<sup>lxxxvi</sup>. Indeed as a result of the harassment in 2012 some labour NGOs have been reviewing their approach and turning towards a more movement practice that focuses on supporting local workers' groups<sup>lxxxvii</sup>.

## CONCLUSION

This article sought to explain the shift in the Party/state's approach to labour NGOs in 2012. Specifically, it argued that the Party/state's 'invitation to dance' with labour NGOs reflected a broader strategy of welfarist incorporation aimed at re-working the social contract between the state and labour. This broader strategy has both a state logic of maintaining social control and a market logic of stabilising capitalist production. This strategy required two key adjustments: first, the relaxation of registration regulations for specific social organisations; and second, the creation of a civic infrastructure for governmental sub-contracting of social services. Aware of the services that labour NGOs provided to migrant workers, relevant government departments and local Trades Unions sought pro-actively to draw selected labour NGOs into welfare-focussed co-operation. In this way they could incorporate labour NGOs in a qualitatively different way into the political system, stymie their radical edge by emphasising services to the exclusion of rights, and wean them off external funding.

Whilst the simultaneous repression of labour NGOs in Guangdong province in the summer of 2012 might seem to contradict the intentions of the invitation to dance, it suggests that this shift does not spell the end of harassment. Labour NGOs have responded in various ways to this invitation to dance, some seizing the opportunity to access resources, legitimacy and influence, others treading more cautiously, and some refusing to dance. However, these moves to refashion the welfare contract raise thorny practical and strategic issues. At the practical level the relative newness of welfare-oriented NGOs means that there are considerable problems of capacity, scale and governance. With contracts signed on a one or two year basis in general, there are serious issues of sustainability both for organisational development and welfare provision. Labour NGOs face additional constraints in becoming effective, namely the structural problems of a large, shifting worker population, access to factories, and continuing governmental suspicion. Furthermore, the subsumption of labour

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<sup>lxxxvi</sup> Interview 79, labour NGO, Hong Kong, 09.12.2013

<sup>lxxxvii</sup> Interview 79, labour NGO, Hong Kong, 09.12.2013

NGOs under a TU-led Federation might be the death-kiss of labour activism, as labour NGOs get embroiled in providing services rather than engaging in strategic agendas.

Even if labour NGOs do achieve the tasks laid out in government contracts, it is unlikely that their activities will make a significant difference to workers' situation and to the development of a labour movement. In the end ameliorating workers' situation depends crucially on empowering workers to articulate demands and negotiate with the state and capital. Most historical struggles for improved working conditions and rights have built on concerted pressure from below, involving an organised workers' movement and other progressive forces.

There is a broader issue of whether a new social contract can ensure a decent bottom-line of working conditions, dampen worker protest and maintain social order. Though central Party leaders have been discussing universalising social welfare and removing the residence permit system, these changes will take time and will no doubt vary regionally. Sub-contracting labour NGOs to provide services is an interim measure in this hiatus, pending other systemic reforms for completing the refashioning of the social contract. Much will depend not just on the responses of labour NGOs but also on the willingness of Chinese workers to accept economic improvements in lieu of political rights to organise. As for the future of labour NGOs, the current state overtures are both an opportunity to gain new funding and legitimacy from the state but also a subtle means to separate the 'chaff from the wheat' and to dampen the prospects of independent labour organising. It is welfarist incorporation de rigueur and repression by stealth.

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